



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

MEMORANDUM ENDORSED

March 13, 2023

BY ECF

The Honorable Gregory H. Woods
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/13/2023
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**Re: *United States v. Luis Toribio*
 22 Cr. 246 (GHW)**

Dear Judge Woods:

The Government writes to request that the Court enter the proposed amended forfeiture order (the “Proposed Order”) in the above-captioned matter. By way of background, on August 16, 2022, the Court entered a Consent Preliminary Order of Forfeiture/Money Judgment as to Luis Toribio (the “Consent Order”). (Dkt. 33). That same day, the Court sentenced Toribio to three months’ imprisonment and entered judgment the following day. (Dkt. 34).


Shortly after Toribio’s sentencing, the Government discovered that the Consent Order was missing certain language necessary to forfeit the specific property listed in the Consent Order. On September 9, 2022, the Government contacted counsel for Toribio to ask whether they would consent to an amended forfeiture order. The Government repeated its inquiries on September 28, 2022 and October 3, 2022. On October 3, 2022, counsel for Toribio agreed to sign an amended consent forfeiture order, which the Government sent on October 4, 2022.

On October 21, 2022, January 20, 2023, and March 1, 2023, the Government wrote counsel for Toribio to ask for the signed amended consent forfeiture order. On March 1, 2023, counsel for Toribio responded that they no longer represented Toribio and could not require his signature on the amended consent order.

The Government now respectfully requests that the Court enter the Proposed Order. The terms of the Proposed Order are identical to those in the Consent Order and Toribio's plea agreement. The only changes to the so-ordered paragraphs are the addition of paragraphs 2, and 7-11 in order to effect the forfeiture of accounts used as part of Toribio's criminal conduct.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

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cc: Luis Toribio (by certified mail)
Arthur D. Middlemiss, Esq. (by email)

Application denied without prejudice. The Court requests supplemental briefing from the Government regarding the Court's authority to enter this proposed order. In particular, to the extent that the Government requests that the proposed order become part of the judgment (see paragraph 3), the Court requests the Government's view regarding the authority of the Court to modify the judgment in this way after its entry. The Court requests that the Government address the extent to which the provisions that were omitted from the order entered by the Court need not be included in the judgment, and might be, instead, contained in a separate stand-alone order. The Court also requests the views of the United States regarding the basis for its position that the Court can act on this request without the input of defense counsel.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 38.

SO ORDERED.

Dated: March 13, 2023
New York, New York


GREGORY H. WOODS
United States District Judge